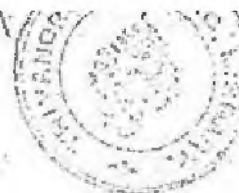


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THE FORT ST. GEORGE GAZETTE

EXTRAORDINARY

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Part IV—Proceedings of the Madras Legislature

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Bill to be introduced in the Legislative Assembly
of the Province of Madras.

Under the proviso to rule 73 of the Madras
Assembly Rules, the following Bill, together with the
Statement of Objects and Reasons, is published for
general information:—

L.A. BILL No. 4 OF 1937.

*A Bill further to amend the Madras Revenue Recovery
Act, 1864, and the Madras City Land-Revenue
(Amendment) Act, 1867, for certain purposes.*

Madras Act
II of 1864.
Madras Act
VI of 1867.
WHEREAS it is expedient further to amend the Madras
Revenue Recovery Act, 1864, and the Madras City
Land-Revenue (Amendment) Act, 1867, for the pur-
poses hereinafter appearing; It is hereby enacted as
follows:—

1. This Act may be called the Madras Revenue Short title.
Recovery and City Land-Revenue (Amendment) Act,
1937.

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Insertion of new section 36-A in Madras Act II of 1864. Certain provisions of section 36 not to apply to cases of purchase by Government.

2. After section 36 of the Madras Revenue Recovery Act, 1864, the following section shall be inserted, Madras Act II of 1864, namely:—

"36-A. The provisions of the Third and Fourth clauses of section 36 shall not apply to cases where immovable property sold under this Act is purchased by the Government."

Insertion of new section 18-A in Madras Act VI of 1867. Certain provisions of section 18 not to apply to cases of purchase by Government. Operation of Act and savings.

3. After section 18 of the Madras City Land-Revenue (Amendment) Act, 1867, the following section shall be inserted, namely:— SEC-Madras Act VI of 1867.

"18-A. The provisions of the Third and Fourth clauses of section 18 shall not apply to cases where immovable property sold under this Act is purchased by the Government."

4. (1) The Madras Revenue Recovery Act, 1864, shall in its application to the Province of Madras be read and construed as if section 36-A had formed part of that Act from its commencement. Madras Act II of 1864.

(2) The Madras City Land-Revenue (Amendment) Act, 1867 shall be read and construed as if section 18-A had formed part of that Act from its commencement. Madras Act VI of 1867.

(3) Nothing contained in this Act shall be deemed to invalidate any decree or order passed by a Civil Court before the commencement of this Act which has become final.

STATEMENT OF OBJECTS AND REASONS.

In a recent decision of the Madras High Court (1937 All India Reporter, page 287), exception has been taken to the procedure laid down in Board's Standing Order No. 45 (i) in regard to the buying in of lands on behalf of the Government at sales for arrears of land revenue when there are no bidders. The procedure prescribed by the Board's Standing Order is that if no bid is made for the land, it should be purchased on behalf of the Government at a nominal price, and the amount of the purchase money written off the accounts as an irrecoverable arrear. The High Court has observed that this procedure is in conflict with the provisions of the third and fourth clauses of section 36 of the Madras Revenue Recovery Act, 1864, which provide for 15 per cent of the price being deposited by the purchaser with the Collector at the time of purchase, for the payment of the

remainder of the purchase money within 30 days of the purchase, and for the forfeiture of the deposit and the resale of the property, in case of default. The procedure laid down in the Board's Standing Order has been in vogue for a considerable time and no objection has been raised to it hitherto. Considerable administrative inconvenience will be caused without any compensating advantage, if the procedure prescribed by the third and fourth clauses of section 35 is applied to cases where the lands are purchased by Government. The Bill therefore provides that the provisions of those clauses shall not apply where the property is purchased by Government.

As the provisions of the third and fourth clauses of section 18 of the Madras City Land-Revenue (Amendment) Act, 1867 (Madras Act VI of 1867) are similar to the third and fourth clauses of the Madras Revenue Recovery Act, 1864, it is necessary to have a similar provision in the case of the former set of clauses also.

The Bill has been given retrospective effect so that the validity of the numerous sales which might have taken place previously may not be questioned. At the same time, it has been made clear that the validity of a final decree or order passed by a Civil Court before this Bill becomes law, shall not be affected.

15th September 1937.

T. PRAKASAM.

(By order of His Excellency the Governor)

P. APPU NAIR,

Secretary to Government, Legal Department.

Bill to be introduced in the Legislative Council
of the Province of Madras.

Under the proviso to rule 73 of the Madras Council Rules, the following Bill, together with the Statement of Objects and Reasons, is published for general information:—

L.C. BILL No. 1 OF 1937.

A Bill to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the Province of Madras.

WHEREAS with a view to improve the moral condition and the material prosperity of the people of the Province of Madras, it is expedient as early as possible to bring about the prohibition, except for medicinal, scientific or industrial purposes or any purpose other

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than use as a beverage, of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the said Province;

AND WHEREAS it is desirable to give effect to the abovementioned policy by introducing it in certain selected areas in the said Province and utilizing the experience gained therein for extending it to the other areas thereof;

It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Madras Prohibition Act, 1937.

(2) It extends to the whole of the Province of Madras.

(3) (a) This section and sections 3 and 6 shall come into force in the whole of the Province of Madras at once.

(b) The rest of this Act shall come into force—

(i) in the district of Salem, at once; and

(ii) in any other local area in the Province of Madras on such date as the Provincial Government may, by notification, appoint.

Repeals

2. From the date on which the provisions of this Act other than sections 1, 3 and 6 come into force in any local area, the enactments mentioned in the Schedule shall cease to be in force in such area to the extent specified in the fourth column thereof:

Provided that the Provincial Government may, by notification, declare that the provisions of this Act other than sections 1, 3 and 6 shall cease to be in force in any local area on such dates as may be specified in the notification and thereupon the enactments mentioned in the Schedule with any subsequent statutory modifications thereof shall revive and come into force in such area with effect on and from such date.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context—

* bottle *

(1) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebotling.

- (2) "buy" or "buying" includes any receipt, ^{"buy" or "buying"} including gift.
- (3) "Collector" means a Collector of land ^{"Collector"} revenue, or any person appointed under clause (b) of section 23 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act.
- (4) "Commissioner" means the officer appointed ^{"commissioner"} under clause (a) of section 23.
- (5) "cultivation" includes the tending or protecting ^{"cultivation"} of a plant during growth and does not necessarily imply raising it from seed.
- (6) "export" means— ^{"export"}
 - (a) to take out of any local area to which this Act applies to any other local area in the Province of Madras to which this Act has not been extended, or
 - (b) to take out of the Province of Madras otherwise than across a customs frontier as defined by the Central Government.
- (7) "import" means— ^{"import"}
 - (a) to bring into any local area to which this Act applies from any other local area in the Province of Madras to which this Act has not been extended, or
 - (b) to bring into the Province of Madras, otherwise than across a customs frontier as defined by the Central Government.
- (8) "intoxicating drug" means— ^{"intoxicating drug"}
 - (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa* L.) including all forms known as *bang*, *siddhi*, or *ganja*;
 - (ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
 - (iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared therefrom; and
 - (iv) any other intoxicating or narcotic substance which the Provincial Government may, by notification, declare to be an intoxicating drug, such substance not being opium,

- coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, II of 1930.
- 'liquor' (9) "liquor" includes toddy, spirits of wine, methylated spirits, spirits, wine, beer and all liquid consisting of or containing alcohol;
- 'local body' (10) "local body" means the Corporation of Madras, any municipality constituted under the Madras District Municipalities Act, 1920, or any local board constituted under the Madras Local Boards Act, 1920; Madras Act V of 1920.
- 'manufacture' (11) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquor; Madras Act XIV of 1920.
- 'place' (12) "place" includes also a house, shed, enclosure, building, shop, tent and vessel;
- 'police station' (13) "police station" includes any place which the Provincial Government may, by notification, declare to be a police station for the purposes of this Act;
- 'Prohibition officer' (14) "Prohibition officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under section 25;
- 'rectification' (15) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;
- 'sale' or 'selling' (16) "sale" or "selling" includes any transfer including gift;
- 'spirits' (17) "spirits" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not);
- Explanation.*—"Denatured" means subjected to a process prescribed by the Provincial Government by notification for the purpose of rendering unfit for human consumption;
- 'toddy' (18) "toddy" means the fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree; and
- 'transport' (19) "transport" means to move from one place to another within any local area to which this Act applies.

CHAPTER II.—PROHIBITIONS AND PENALTIES.

4. (1) Whoever,
- (a) imports, exports, transports or possesses liquor or any intoxicating drug; or
 - (b) manufactures liquor or any intoxicating drug; or
 - (c) except in accordance with the rules made by the Provincial Government in that behalf, cultivates the hemp plant (*Cannabis sativa*); or collects any portion of such plant from which an intoxicating drug can be manufactured; or
 - (d) taps any toddy-producing tree or permits or suffers to be tapped any toddy-producing tree belonging to him or in his possession; or
 - (e) draws toddy from any tree or permits or suffers toddy to be drawn from any tree belonging to him or in his possession; or
 - (f) constructs or works any distillery or brewery; or
 - (g) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug; or
 - (h) bottles any liquor for purposes of sale; or
 - (i) sells liquor or any intoxicating drug; or
 - (j) consumes or buys liquor or any intoxicating drug; or
 - (k) allows any of the acts aforesaid upon premises in his immediate possession

Prohibition of the manufacture of, traffic in, and consumption of, liquors and intoxicating drugs.

shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both:

Provided that nothing contained in this sub-section shall apply to any act done under, and in accordance with, the provisions of this Act or the terms of any rule, notification, order, licence or permit issued thereunder.

(2) It shall be presumed until the contrary is shown—

- (a) that a person accused of any offence under clauses (a) to (j) of sub-section (1) has committed such offence in respect of any liquor

or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug, for the possession of which he is unable to account satisfactorily; and

(b) that a person accused of any offence under clause (k) of sub-section (1) has committed such offence if an offence is proved to have been committed in premises in his immediate possession in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the tapping of toddy or the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the tapping of toddy or the manufacture of liquor or any intoxicating drug.

Punishment for rendering or attempting to render denatured spirits fit for human consumption.

5. Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in British India or not, which has been denatured or has, in his possession, any spirit in respect of which he knows or has reason to believe that any such attempt has been made shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

For the purpose of this section it shall be presumed, until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.

Prohibition of advertisements.

6. Whoever prints or publishes in any newspaper, book, leaflet, booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other matter commending, soliciting the use of, or offering any liquor or intoxicating drug other than liquor or drugs exempted under section 16, or specially approved as of medicinal value by the Medical Council established by the Madras Medical Registration Act, 1914, shall be punished with fine which may extend to one thousand rupees :

Madras Act IV of 1914

Provided that this section shall not apply—

- (a) to plain catalogues and price lists which may be generally or specially approved by the Commissioner; or
- (b) to the normal circulation within the Province of newspapers and books printed and published in accordance with law outside the Province.

7. When two or more persons agree—

- (a) to commit or cause to be committed any offence under sub-section (1) of section 4 or under section 5, or

Punishment for conspiracy.

- (b) to evade or nullify the provisions of this Act in any area where it is in force,

each of such persons shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in an area to which this Act has not been extended, be punished with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both.

8. Any officer or person exercising powers under this Act, who—

- (a) without reasonable ground of suspicion, enters or searches or causes to be searched, any closed place; or
- (b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person; or
- (d) in any other way maliciously exceeds his lawful powers,

Punishment for vexatious search or arrest.

shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

9. Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to a Prohibition Officer or to the officer in charge of the nearest police station as required by section 33, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Punishment for vexatious delay.

Punishment
for abetment
of escape of
persons
arrested,
etc.

10. Any officer or person exercising powers under this Act who—

(a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or

(b) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, and

any other officer of the Provincial Government or of a local body who abets the commission of any offence against this Act, shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Punishment
for offences
not other-
wise
provided
for.

11. Whoever is guilty of any wilful act or intentional omission in contravention of any of the provisions of this Act, or of any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punished with fine which may extend to two hundred rupees.

Punishment
for abetment
of offence
against Act
in area to
which Act
is not ex-
tended.

12. Where any offence against this Act is committed in any area to which it has been extended, whoever commits, or attempts to commit, or abets the commission of, any of the acts making up the offence shall be liable to be punished therefor, whether such commission, attempt or abetment takes place within or outside such area.

Things
liable to
confiscation.

13. In any case in which an offence has been committed against this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

Confiscation
how ordered.

14. (1) When the offender is convicted or when the person charged with an offence against this Act is acquitted, but the Court decides that anything is liable to confiscation, such confiscation may be ordered by the Court.

(2) When an offence against this Act has been committed but the offender is not known, or cannot be

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found, or when anything liable to confiscation under this Act had not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector or other Prohibition Officer in charge of the district or by any other officer authorized by the Provincial Government in that behalf, who may order such confiscation:

Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims.

15. All offences under this Act shall be cognizable ^{Offences under Act to be cognizable.} and the provisions of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply ^{to them.}

CHAPTER III.—EXEMPTIONS AND LICENCES.

16. (1) The Provincial Government may, by notification and subject to such conditions as they think ^{Power to notify exemptions.} fit, exempt any specified liquor or intoxicating drug or article containing such liquor or drug from the observance of all or any of the provisions of this Act on the ground that such liquor, drug or article is required for a medicinal, scientific or industrial purpose or any purpose other than use as a beverage.

(2) When issuing a notification under sub-section (1), the Provincial Government shall have power to provide that a breach of any of the conditions subject to which the exemption is notified shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

17. Until the Provincial Government by notification otherwise direct, the provisions of this Act shall ^{Exemption of bona fide travellers and lawful consignments.} not be deemed to apply —

- (a) to liquor in the possession of *bona fide* travellers passing through any local area in which this Act is in force, whether by road or by rail;
- or

(b) to lawful consignments of liquor or intoxicating drugs carried by a railway administration through or into any such local area.

Licences for
bona fide
medicinal
or other
purposes.

18. The Provincial Government or subject to the control of the Provincial Government, the Collector, may issue licences to any person or in respect of any institution whether under the management of Government or not, for the manufacture, export, import, transport, sale or possession of any liquor, intoxicating drug or article containing such liquor or drug, on the ground that such liquor, drug or article is required by such person or in respect of such institution for a *bona fide* medicinal, scientific or industrial purpose or any purpose other than use as a beverage.

Licences for
tapping for
sweet
toddy, etc.

19. Subject to the control of the Provincial Government, the Collector or any officer empowered by him may issue—

- (a) licences for the tapping of any trees for sweet toddy for consumption thereof without fermentation or for the manufacture of jaggery therefrom, or
- (b) permits for the possession, transport or sale of such toddy.

Permits and
licences.

20. The Provincial Government or any officer empowered by them in this behalf may issue—

- (a) permits authorizing any person to consume and possess for personal consumption any liquor or intoxicating drug;
- (b) permits authorizing any person or institution to possess and use any liquor for any religious purpose in accordance with ancient custom;
- (c) licences to any institution to possess liquor and issue it to such of its members as hold permits under clause (a); and
- (d) licences to any person in charge of a restaurant car attached to a railway train to possess liquor and serve it to *bona fide* passengers travelling by the train.

21. Every licence or permit granted under section 18, 19 or 20 shall—

Form and conditions of licences and permits.

- (1) be granted on payment of such fees, if any, for such period, and subject to such restrictions and limitations and on such conditions; and
- (2) be in such form and contain such particulars as the Provincial Government may direct either generally or in any particular case.

22. Every person taking out any licence or permit under section 18, 19 or 20 may be required to execute a counterpart agreement in conformity with the tenor of his licence or permit, and to give such security for the performance of his agreement as the Collector may require.

Counterpart agreement to be executed by licensee.

23. (1) The Collector may cancel or suspend any such licence or permit—

Power to cancel or suspend licences and permits.

- (a) if any fee payable by the holder thereof be not duly paid; or
- (b) in the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit; or
- (c) if the holder thereof is convicted of any offence against this Act, or of any cognizable and non bailable offence; or
- (d) if the conditions of such licence or permit provide for its cancellation or suspension at will; or
- (e) if the purpose for which the licence or permit is granted ceases to exist.

(2) The Provincial Government may cancel or suspend any such licence or permit without assigning the aforesaid or any other reasons.

24. In the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit, such holder shall, in addition to the cancellation or suspension of the licence or permit granted to him, be punished with imprisonment which may

Penalty for breach of the conditions of licences and permits.

extend to six months or with fine which may extend to one thousand rupees or with both, unless he shall establish that all due and reasonable precautions were exercised by him to prevent any such breach.

Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence or permit, be liable to the same punishment.

CHAPTER IV.—ESTABLISHMENT AND CONTROL.

Appoint-
ment of
officers and
withdrawal
of powers.

25. The Provincial Government may, from time to time, by notification—

- (a) appoint an officer to exercise all the powers of a Collector under this Act in all local areas in which it is in force and to have the control of the administration of the provisions of this Act in such areas;
- (b) appoint any person other than the Collector of land revenue to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the Provincial Government may from time to time direct;
- (c) withdraw from the Commissioner or the Collector of land revenue any or all of the powers conferred on him by this Act;
- (d) appoint paid or honorary officers with such designations, powers and duties as the Provincial Government may think fit;
- (e) order that all or any of the powers and duties assigned to any person under clause (d) shall be exercised and performed by any existing Government official or any other person; and
- (f) delegate to any Prohibition Officer all or any of their powers under this Act.

Prohibition
Committees.

26. (1) The Collector or other Prohibition Officer in charge of a district may constitute prohibition committees in every taluk thereof to assist him in carrying out the objects of this Act in the district.

(2) Every member of a prohibition committee shall observe the working of this Act in his taluk and report thereon and on every matter connected therewith

at the prescribed intervals and at any other time he thinks fit, to the Collector or other Prohibition Officer aforesaid.

(3) Every member of a prohibition committee shall be entitled to give information at any police station in his taluk regarding the commission or suspected commission of any offence against this Act in such taluk, and the officer in charge of such station shall take action on such information and investigate the case in the manner laid down in the Code of Criminal Procedure, 1898.

27. The Provincial Government may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 32 throughout the Province or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed, before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.

CHAPTER V.—POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

28. If any Collector, Prohibition Officer or Magistrate upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under sub-section (1) of section 4 has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Collector, Prohibition Officer or Magistrate.

29. Whenever a Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, any Police Officer not below the rank of sub-inspector, any officer in charge of a police station, or

Power of Provincial Government to authorize officers to admit persons arrested to bail.

Issue of search warrants.

Power of entry and search without warrant.

any other paid or honorary officer authorized by the Provincial Government in this behalf has reason to believe that an offence under sub section (1) of section 4 has been committed and that the delay occasioned by obtaining a search warrant under section 28 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer as the case may be.

Power to enter and inspect places of the manufacture and sale

30. The Collector, any Prohibition Officer not below such rank as the Provincial Government may determine, or any Police or other paid or honorary officer authorized by the Provincial Government in this behalf, may enter and inspect, at any time by day or by night, any place in which it is reasonably suspected that any person draws toddy or carries on the manufacture of any other liquor or any intoxicating drug, or stores any liquor or intoxicating drug; and may enter and inspect, at any time, any place in which any liquor or intoxicating drug is reasonably suspected to be kept for sale by any person, and may examine, test, measure or weigh any material, still, utensil, implement, apparatus, liquor or intoxicating drug found in such place.

Power to use force in case of resistance to entry.

31. If any officer empowered to make an entry under section 29 or 30 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

Arrest of offenders and seizure of contraband liquor and articles without warrant.

32. Any Prohibition Officer, any officer of the Police or Land Revenue departments, and any other person authorized in that behalf—

(a) may arrest without warrant any person found committing an offence punishable under sub section (1) of section 4;

- (b) may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act; and
- (c) may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, he may have reasonable cause to suspect any such liquor, drug or other article to be, or to be concealed:

Provided that if the officer or person making the arrest under this section be not empowered under section 27 to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if such an officer is known to be within a distance of five miles from the place where such arrest took place. And it shall be the duty of such officer empowered as afore said to admit such person to bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the case.

33. Any person, who may be accused or reasonably suspected of committing an offence against this Act, and who on demand made by any Prohibition Officer or any officer of the Police or Land Revenue departments or by any other person authorized in that behalf refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

34. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

35. Officials of all departments of the Provincial Government and of all local bodies shall be legally bound to assist any Prohibition or Police Officer in carrying out the provisions of this Act.

36. Every official employed by the Provincial Government or by any local body, other than a Police or Prohibition Officer, shall be bound to give immediate information at the nearest police station or to a Prohibition Officer, of all breaches of any of the provisions of this Act which may come to his knowledge;

and all such officials shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Lan holders and of how to give information.

37. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land or house-property on or in which there shall be any tapping for toddy or manufacture of liquor or intoxicating drugs shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an officer of the Police, or Land Revenue departments immediately the same shall have come to their knowledge.

Persons arrested how to be dealt with.

38. (1) When any person is arrested under the provisions of section 29, 32 or 33, the person arresting him shall, unless bail shall have been accepted under the provisions of section 29 or 32, forthwith forward him to the nearest police station or to a Prohibition Officer, with a report of the circumstances under which such arrest was made.

Procedure of Police station officer.

(2) On any such person being brought to a police station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned, before himself, or before the Prohibition Officer if any, or any Police officer within the limits of the jurisdiction of which Prohibition or Police Officer, the offence with which he is charged is suspected to have been committed, or, in default of bail, shall forward him in custody to such officer.

Procedure of Police or Prohibition Officer empowered to inquire.

(3) On any such person being brought in custody before a Prohibition or Police Officer as aforesaid or appearing before such officer on bail or when such officer as aforesaid has himself made the arrest such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to inquire into or try the case:

Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such officer, he shall, if sufficient bail be tendered for the appearance

of the person arrested, admit such person to bail to appear on any subsequent day before himself or any other officer having jurisdiction to inquire into the case.

39. It shall be the duty of any officer arresting any person under the powers conferred by section 29 and of any officer in charge of a police station or any Police or Prohibition Officer before whom a person arrested is brought or appears under the provisions of section 38 to release such person on bail if sufficient bail be tendered for his appearance before a Prohibition Officer or before a Magistrate as the case may be.

40. (1) Before any person is released on bail, a bond of such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Police or Prohibition Officer before whom he was bailed to attend, or by the Magistrate, as the case may be:

Provided that the officer admitting any such person to bail may in his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

(2) The Provincial Government shall from time to time determine the form of the bond to be used in any local area.

41. When by reason of default of appearance of a person bailed to appear before a Police or Prohibition Officer, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

Power of
Police or
Prohibition
Officer to
summon
witnesses.

42. Any Police or Prohibition Officer holding an inquiry in the manner provided in section 38 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such officer shall so summon any person to appear before him if the journey to be made for complying with such summons exceeds ten miles by road or fifty miles by rail or such other limits as the Provincial Government may fix.

Terms of
summons.

43. Every summons issued under section 42 shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

Examination
of witnesses.

44. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced to writing and shall be signed by such officer.

When
attendance
of witness
to be
dispensed
with, and
procedure
in such
cases.

45. It shall be lawful for a Police or Prohibition Officer, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex, it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry; and such person shall be bound so to answer accordingly, and the provisions of section 44 shall apply to such answers.

Power of
Police or
Prohibition
Officer to
summon
suspected
persons.

46. Any Police or Prohibition Officer may after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 38 to 45 shall become applicable.

The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 42 to 45 before summoning the person suspected.

47. The law for the time being in force as to summonses and compelling the attendance of persons summoned in criminal courts shall, so far as the same may be applicable, apply to any summons issued by a Police or Prohibition Officer and to any person summoned by him to appear under the provisions of this Act.

48. When a Police or Prohibition Officer forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure, 1898.

V of 1898.

49. When a Police or Prohibition Officer forwards in custody any person accused of an offence against this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure, 1898, on an officer in charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

V of 1898.

50. No person accused or suspected of having committed an offence under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for

Accused not to be detained in custody for a longer period than twenty-four hours without special authority.

the journey of such person to the place where a Police or Prohibition Officer may be and from thence to the court having jurisdiction to try the case.

Police
to take
charge of
articles
seized.

51. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of a Prohibition Officer, all articles seized under this Act which may be delivered to them; and shall allow any Prohibition Officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Power
of District
Magistrate
to transfer
cases.

52. The District Magistrate shall have power to transfer any case under this Act pending inquiry or trial before any Magistrate or Officer in the district to any other Magistrate or Officer therein.

Operation of
the Code of
Criminal
Procedure,
1898.

53. Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure, 1898. 7 of 1898.

CHAPTER VI.—RULES AND NOTIFICATIONS.

Power to
make rules.

54. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the Provincial Government may make rules—

- (a) for the issue of licences and permits and the enforcement of the conditions thereof;
- (b) prescribing the powers to be exercised and the duties to be performed by paid and honorary Prohibition Officers in furtherance of the objects of the Act;
- (c) determining the local jurisdiction of Police and Prohibition Officers in regard to inquiries and the exercise of preventive and investigating powers;
- (d) authorizing any officer or person to exercise any power or perform any duty under this Act;

- (e) prescribing the powers and duties of prohibition committees and the members thereof and the intervals at which the members of such committees shall make their reports;
- (f) regulating the delegation by the Commissioner or by Collectors or other district officers of any powers conferred on them by or under this Act;
- (g) regulating the cultivation of the hemp plant, the collection of those portions of such plant from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom;
- (h) declaring how denatured spirit shall be manufactured;
- (i) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith;
- (j) for the grant of batta to witnesses, and of compensation for loss of time to persons released under sub-section (3) of section 38 on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted;
- (k) regulating the power of Police and Prohibition Officers to summon witnesses from a distance under section 42; and
- (l) for the disposal of articles confiscated and of the proceeds thereof.

55. All rules made and notifications issued under this Act shall be published in the Official Gazette and upon such publication, shall have effect as if enacted in this Act.

Publication
of rules
and notifi-
cations.

CHAPTER VII.—LEGAL PROCEEDINGS.

ACTIONS
against the
Crown, etc.

56. (1) No action shall lie against the Crown or against any Prohibition, Police or other officer, for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Act.

(2) All prosecutions of any such officer, and all actions which may be lawfully brought against the Crown or against any such officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

(3) In such action, if for damages, it shall be lawful for the court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered, to refuse costs to the plaintiff and direct him to pay the costs of the defendant.

Courts to
take judicial
notice of
appoint-
ments

57. All courts shall take judicial notice of all notifications and orders conferring powers, imposing duties and making appointments under this Act.

SCHEDULE.

(See section 2.)

Year.	Number.	Short title or subject.	Extent of repeal.
(1)	(2)	(3)	(4)
<i>Acts of the Governor of Fort St. George in Council.</i>			
1886	I	The Madras Abkari Act, 1886	The whole.
1903	I	The Madras Abkari (Amendment) Act, 1903.	Do.
1913	I	The Madras Abkari (Amendment) Act, 1913.	Do.
1915	I	The Madras Abkari (Amendment) Act, 1915.	Do.
<i>Act of the Madras Legislature.</i>			
1929	XVIII	The Madras Abkari (Amendment) Act, 1929.	The whole.
<i>Act of the Indian Legislature.</i>			
1930	..	The Dangerous Drugs Act, 1930	.. So much of Schedule II as relates to the Madras Abkari Act, 1886.

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to authorize and facilitate a real step towards the removal of the drink evil in this Province. It is drafted to provide statutory authority to introduce prohibition in select areas, with power to extend it to other areas as time and experience enable such extension to be made. The Bill

is based on the assumption that the way to the attainment of the goal of prohibition is not by local option the methods of which are not suited to our country, nor by gradual curtailment of the number of shops, but by undertaking the responsibilities of total prohibition in certain select areas, large enough to maintain an adequate 'dry' area within the Province so as to enable the administration to gain experience and confidence.

The procedure adopted is the repeal of the Madras Abkari Act, 1886, in the areas in which the proposed measure is to be brought into force. In areas where the proposed measure is not adopted, the Abkari Act will continue to be in force. The Bill contains all the provisions of the Abkari Act which need to be maintained.

The Bill penalizes all traffic and consumption of liquor and intoxicating drugs, but provides (1) for the exemption of certain articles which may contain alcohol but which the medical profession need for their work such as certain forms of cod-liver oil and the like or which may be needed for any industrial, or scientific purpose or any purpose other than use as a beverage, (2) for permission being granted under licences to medical men and others to deal in prohibited articles where it is necessary for medicinal, scientific or industrial purposes, etc., (3) for the issue of personal permits to those who in the opinion of the Government may be specially exempted and permitted to keep and consume liquor and (4) for the issue of licences to existing institutions and clubs to possess liquor and issue it to such of its members as are permitted to consume liquor. It is the intention to use the last two provisions only in favour of bottled foreign liquor and of persons and institutions consisting of persons who by long habit cannot dispense with the use of the same and who are not likely in the opinion of the licensing authority to abuse the concession. The Bill provides for honorary officers being appointed when and where necessary to help in carrying out the objects of the measure.

Being a measure with a definite and important object of its own, it has been drafted in the present form though it was possible to draft it in the shape of a Bill to amend the Madras Abkari Act, 1886.

16th September 1937. C. RAJAGOPALACHARIAR.

(By order of His Excellency the Governor)

P. APPU NAIR,

Secretary to Government, Legal Department.